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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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USROF IV LEGAL TITLE TRUST 2015-1,
BY U.S. BANK NATIONAL ASSOCIATION,
AS LEGAL TITLE TRUSTEE,

Plaintiff,

v.

WHITE LAKE RANCH ASSOCIATION;
SFR INVESTMENTS POOL 1, LLC; DOE
INDIVIDUALS I-X, inclusive, and ROE
CORPORATIONS I-X, inclusive.,

Defendants.

SFR INVESTMENTS POOL 1, LLC,

Counter-claimant,

v.

USROF IV LEGAL TITLE TRUST 2015-1,
BY U.S. BANK NATIONAL ASSOCIATION,
AS LEGAL TITLE TRUSTEE; BANK OF
AMERICA, N.A.; JOSE SALAZAR, an
individual; and ELVA SALAZAR, an
individual,

Counter-defendant/Cross-defendants.

Case No. 3:15-cv-00477-MMD-CWH

ORDER

This case arises out of a homeowner’s association (“HOA”) foreclosure and involves a constitutional due process challenge to Nevada Revised Statute Chapter 116’s notice provisions. Before the Court are a Motion to Stay filed by Plaintiff/Counter-defendant U.S. Bank National Association (“U.S. Bank”) (ECF No. 58), and a Counter Motion to Stay filed by Defendant/Counter-claimant SFR Investment Pool 1, LLC (“SFR”)

1 (ECF No. 61). The Court has also reviewed the parties' respective responses and replies.
2 (ECF Nos. 60, 62, 63.) U.S. Bank asks the Court to stay all proceedings except for
3 dispositive motions based on the Ninth Circuit's ruling in *Bourne Valley Court Trust v.*
4 *Wells Fargo Bank, NA*, 832 F.3d 1154 (9th Cir. 2016), r'hng denied (9th Cir. Nov. 4, 2016).
5 SFR argues that the Court should either stay *all* proceedings or let the case proceed
6 unrestricted. For the reasons below the Court agrees with SFR and finds that a complete
7 stay of the case, at least until the Supreme Court addresses the pending certiorari
8 petitions, is prudent.

9 The Court had *sua sponte* imposed a temporary stay because of the potential
10 impact of the Ninth Circuit Court of Appeals' decision in *Bourne Valley*, where the court
11 found that Chapter 116's notice provisions as applied to a nonjudicial foreclosure of an
12 HOA lien before the 2015 amendment were facially unconstitutional. 832 F.3d at 1157-
13 60. The Court subsequently lifted the stay after the Ninth Circuit issued the mandate in
14 *Bourne Valley*. (ECF No. 57.) The Court reasoned that *Bourne Valley*'s holding is binding
15 precedent unless and until it is reversed, though such finality may not occur for months.
16 (*Id.*) Within days, the Nevada Supreme Court in *Saticoy Bay LLC Series 350 Durango*
17 *104 v. Wells Fargo Home Mortgage, a Division of Wells Fargo Bank, N.A.*, 388 P.3d 970
18 (Nev. 2017), reached the opposite conclusion, finding that Nevada's superpriority lien
19 statutes are not facially unconstitutional. The nonprevailing parties in *Bourne Valley* and
20 *Satico Bay* are seeking review of both decisions in the United States Supreme Court. In
21 light of this latest development, the Court finds that a stay is warranted and will grant
22 SFR's Motion.

23 A district court has discretionary power to stay proceedings in its own court. *Landis*
24 *v. N. Am. Co.*, 299 U.S. 248, 254-55 (1936); *see also Lockyer v. Mirant Corp.*, 398 F.3d
25 1098, 1109 (9th Cir. 2005). "A trial court may, with propriety, find it is efficient for its own
26 docket and the fairest course for the parties to enter a stay of an action before it, pending
27 resolution of independent proceedings which bear upon the case." *Leyva v. Certified*
28 *Grocers of Cal., Ltd.*, 593 F.2d 857, 863 (9th Cir. 1979). "When considering a motion to

1 stay, the district court should consider three factors: (1) potential prejudice to the non-
2 moving party; (2) hardship and inequity to the moving party if the action is not stayed; and
3 (3) the judicial resources that would be saved by avoiding duplicative litigation if the cases
4 are in fact consolidated.” *Pate v. Depuy Orthopaedics, Inc.*, No. 2:12-cv-01168-MMD-
5 CWH, 2012 WL 3532780, at *2 (D. Nev. Aug. 14, 2012) (quoting *Rivers v. Walt Disney*
6 *Co.*, 980 F. Supp. 1358, 1360 (C.D. Cal. 1997)) (internal quotation marks omitted). See
7 also *Dependable Highway Exp., Inc. v. Navigators Ins. Co.*, 498 F.3d 1059, 1067 (9th Cir.
8 2007).

9 These three factors weigh in favor of a temporary stay in this case, though the
10 duration of the stay may be extended depending on whether the Supreme Court will grant
11 *Bourne Valley* and *Well Fargo*’s petitions for a writ of certiorari. U.S. Bank insists that a
12 stay will be prejudicial because of the continued damages to U.S. Bank caused by SFR’s
13 assertion of title to the property at issue. (ECF No. 62 at 7.) However, any damage to U.S.
14 Bank from a stay will be outweighed by the fees that all parties will surely incur from
15 continued litigation because a decision by the Court could be rendered moot by a decision
16 in the certiorari proceedings before the Supreme Court. Until there is finality on the issue
17 of whether Nevada’s superpriority lien statutes are constitutional, a stay will benefit the
18 parties and conserve judicial resources.

19 It is therefore ordered that SFR’s Counter Motion to Stay (ECF No. 61) is granted
20 and U.S. Bank’s Motion to Stay (ECF No. 58) is granted in part and denied in part. This
21 action is temporarily stayed until resolution of the certiorari proceedings before the United
22 States Supreme Court in *Bourne Valley* and/or *Saticoy Bay*. The parties must file a status
23 report within fifteen (15) days from such resolution. The pending Motion for Partial
24 Summary Judgment (ECF No. 59) is denied without prejudice and may be refiled within
25 thirty (30) days after the stay is lifted.

26 DATED THIS 10th day of April 2017.

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MIRANDA M. DU
UNITED STATES DISTRICT JUDGE